



Natural Gas Pipeline Permitting Reform Act – H.R. 161

Background

Transportation of natural gas in the United States is primarily accomplished through a vast pipeline network. There are currently over 210 natural gas pipeline systems in the United States, comprised of over 300,000 miles of interstate and intrastate transmission pipelines. Despite improvements in natural gas pipeline infrastructure over the last decade, and attempts to strengthen the permitting process in the Energy Policy Act of 2005 (EPACT), challenges continue to exist for permitting new interstate natural gas pipeline projects.

Areas of the United States with a high demand of natural gas for electricity generation, like New England and New York City, have already seen massive spikes in price in part due to a shortage of natural gas pipeline capacity. As natural gas becomes a more dominant force in electricity generation and manufacturing, it is critical that pipeline construction can take place through a streamlined and modernized permitting process.

Issue

Under the Energy Policy Act of 2005, the Federal Energy Regulatory Commission (FERC) is designated as the lead agency charged with reviewing natural gas pipeline project applications. FERC conducts the environmental review of each project as required under the National Environmental Policy Act (NEPA) and is given authority to enforce deadlines for other agencies to issue an approval or denial of a permit. Multiple permits are often required for a project, including permits under the Clean Water Act, Endangered Species Act, and Clean Air Act. Under existing FERC regulations and procedures, various federal and state permitting agencies participate in the development of the NEPA analysis for a given pipeline project, and then are required to complete their respective permit application reviews no later than 90 days after notice of FERC's environmental review is complete.

Despite the increased authority given to FERC under EPACT, numerous delays have been reported. A December, 2012 study conducted by the INGAA Foundation found that delays of more than 90 days have risen 28 percent after EPACT's permitting reforms, while delays of 180 days or more have risen 20 percent. A February, 2013 GAO report found the natural gas pipeline permitting process to be "complex." A chief cause of these growing delays is that there are no enforcement mechanisms or consequences if agencies do not comply within 90 days.

Solution

The Natural Gas Pipeline Permitting Reform Act would modernize the review process by establishing firm timelines for the review of natural gas pipeline permit applications. Specifically, the legislation would:

- Require that, for projects going through the FERC pre-filing process, FERC approve or deny a requested pipeline certificate no later than 12 months after receiving a complete application;
- Codify FERC's requirements that all relevant agencies approve or deny a permit application within 90 days after FERC's notice of completion of the environmental review, allowing for a 30-day extension, and;
- Require that a permit goes into effect if an agency does not issue a response within the 90-day time frame, but still allows for agencies to proffer conditions within 30 days of a permit approval.

The Natural Gas Pipeline Permitting Reform Act is a common sense reform aimed at providing greater certainty for interstate natural gas pipeline projects. The legislation would strengthen the reforms made in EPACT while preserving the critical environmental review processes necessary for each natural gas pipeline project.